



Agent Disclosures

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Agent Disclosures

Almost on a daily basis, the trainers at ACOP are asked questions relating to various requirements for disclosure of information.

In order to address the issue of conflicts of interest, the NSW Property and Stock Agents Act 2002 (the Act), requires that agents provide disclosures in a prescribed manner for the following areas:

- financial and investment advice
- relationships that the agent has with anyone to whom the agent refers the client for professional services associated with the sale or purchase. Such professional services may include finance broker, financial advisers, property valuers, legal practitioners, other agents.
- any payment that the agent may derive, or expects to derive. Section 47(1)(c) of the Act, states that the disclosure must include the amount, value or nature of any benefit of which the agent is aware that a person to whom the agent has referred the client or a prospective buyer has received, receives, or expects to receive in connection

with the sale, or for promoting the sale, or for providing a service in connection with the sale of the land.

Disclosures include family relationships, business relationships, fiduciary relationships.

Furthermore, Section 50 of the Act refers to advertisements and states that all advertisements must include information about the licensee. Section 50(2) states that:

A licensee who has a relevant interest in the sale of real or personal property must not in the course of carrying on business as an agent on the sale publish or cause to be published an advertisement relating to or in connection with the proposed sale of the property unless the relevant interest is disclosed in the advertisement.

Section 50(3) goes further to define “relevant interest” as:

- a. the licensee has an interest in the property as an owner of the property, or
- b. the licensee is a corporation and a director of the corporation is an owner of the property, or

c. the licensee is a director of a corporation and the corporation is an owner of the property.

In all of these situations, all advertisements relating to a property for sale or lease must disclose that the agent has interest. This is usually done with the words “Agents Interest Disclosed”, but this is not prescriptive and you may use other words to describe this interest. Advertising includes, but is not limited to, newspaper advertising, websites, window displays, brochures, floor plans, sign on property, Contract for the Sale and Purchase of Land and what you as an agent say to prospective purchasers or tenants.

The Act prohibits real estate agents and their sales employees from obtaining or being connected to the obtaining of a beneficial interest in the sale of a property, unless agreed to by the client. If you, or anyone associated with you, purchased property you are offering for sale in your capacity as an agent, then the legislation demand you make that fact known up front and get the clients consent in writing. You will also need to get the client’s written consent to be paid a commission on the sale. A breach of these requirements can lead to up to two years imprisonment.

There are many other aspects to disclosure, but the best rule of thumb that an agent can use, is to ask themselves the question – is this information something that I would like to know prior to purchasing or leasing this property. If you need to stop and think, even for a quick moment, about the answer to that question – then this is an issue that you need to discuss with the property owner and ultimately

disclose to your vendor/tenant.

Rosy Sullivan

Director | College Principal

From the office

Here we are in a new year facing the same old challenges – to RAT or not to RAT is the new task for 2022 it seems. ACOP was closed for business for two weeks over the Christmas / New Year holiday period and we all certainly needed the rest. A couple of the team succumbed to the dreadful Covid over the break but are now healthy again and back in the workplace. The rest of us – well it’s the day to day process that we are now all living with.

Just prior to Christmas, we negotiated additional space for the College and the work commenced on joining our current premises with the new area. This has now given us a couple of additional and much larger training rooms – which will naturally be an advantage for our social distancing for face-to-face training programs. There is still some work to be completed for the fit-out, but this week saw our first classes being conducted in the new training room. Our capacity for students has doubled and we have some lovely new break-out areas for the breaks. In a few more weeks, it should all be looking like it’s been part of the College for a long time. We’ll make sure to post a tour of the new space on our socials as soon as it is complete – it’s an exciting time.

And the cake year has commenced. On our first day back in the office, we celebrated 3 birthdays – Monique from New Year’s Eve, Jonno from New Year’s Day and Martin for our actual first day back in the office on 4 January. And yes, it was definitely a big cake for the occasion. And the cake-ing tradition at ACOP continues.

Here’s to a fabulous 2022.

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